

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION**

Derrick Reaves,
Petitioner

vs

Case No. 1:02cv100
(Weber, Sr. J.; Hogan, M.J.)

Tim Brunsman,
Respondent

ORDER

The instant habeas corpus action was brought pro se pursuant to 28 U.S.C. § 2254. On March 24, 2005, the Court issued an Order adopting the undersigned United State Magistrate Judge's Report and Recommendation to deny one of petitioner's four grounds for relief on the merits. (*See Docs. 13, 15*). On November 18, 2005, a final Order and Judgment was entered adopting a subsequent Report and Recommendation to dismiss petitioner's remaining claims for relief with prejudice on procedural waiver grounds. (*See Docs. 20, 22, 23*). In the final November 18, 2005 Order, the Court granted a certificate of appealability with respect to all four of petitioner's claims for relief; the Court also certified pursuant to 28 U.S.C. § 1915(a)(3) that an appeal would be taken in "good faith" and, therefore, granted petitioner leave to proceed on appeal *in forma pauperis* upon a showing of financial necessity. (Doc. 22, pp. 23-24).

This matter is now before this Court for ruling on petitioner's application and affidavit to proceed on appeal *in forma pauperis* (Doc. 24), as well as petitioner's motion for appointment of counsel to represent him on appeal (Doc. 26). Petitioner's financial affidavit (Doc. 24) demonstrates that petitioner has insufficient funds to proceed on appeal from the Court's March 24, 2005 Order disposing of one of petitioner's grounds for relief, as well as the final Order and Judgment entered November 18, 2005 disposing of petitioner's remaining claims. Upon such showing

of financial necessity, this Court hereby GRANTS petitioner's application for leave to proceed on appeal *in forma pauperis* (Doc. 24) in accordance with its November 18, 2005 Order (*see* Doc. 22, pp. 23-24).

It is FURTHER ORDERED that petitioner's motion for appointment of counsel on appeal (Doc. 26) is DENIED. Petitioner remains free, however, to request appointment of counsel on appeal from the United States Court of Appeals for the Sixth Circuit.

IT IS SO ORDERED.

Date: 12/29/2005
cbc

s/Timothy S. Hogan
Timothy S. Hogan
United States Magistrate Judge

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